

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3117 OF 2007

R. SURESHLAL

... APPELLANT

VERSUS

DURAISAMY(DEAD) THROUGH LRS. & ORS.

...RESPONDENTS

O R D E R

We have heard learned counsel for the parties.

2. This appeal has been filed against the common judgment of the High Court dated 03.03.2006 passed in Civil Revision Petition (N.P.D.) Nos.2301 to 2305 and 1698 of 2005. The High Court by the impugned judgment has allowed all the Civil Revision Petitions setting aside the judgment of Subordinate Judge, Bhavani.

3. Brief facts of the case to be noticed for deciding the appeal are:

One R.K. Lula was the owner of the premises. R.K. Lula died leaving behind the appellant and his other sons as legal heirs. The appellant as a Power of Attorney filed separate petitions against each of the respondent Nos.1 to 6 under Tamil Nadu Buildings (Lease and Rent

Control) Act 18 of 1960 praying for eviction. The appellant also claimed to be co-owner of the premises. All the respondents were tenants of different portions. The grounds taken for eviction in the petitions were personal bona fide need, building being 40 years old constructed of bricks, mud and clay requires demolition. The appellant pleaded that he intended to demolish the building and put a new building since there is a danger of super-structure falling down, ground for default in payment of rent was also taken.

4. The Rent Controller of Bhavani (District Munsiff of Bhavani) rejected five of the Rent Control Original Petitions filed by the appellant and allowed Rent Control Original Petition No.45 of 1999 which was filed against respondent No.6. The appellant filed Rent Control Appeals against the five orders of the Rent Controller by which his petitions were rejected. Respondent No.6 filed a Rent Control Appeal No.4 of 2004 against the order dated 22.09.2003 of the Rent Controller by which the petition of the landlord was allowed. The Rent Control Appellant Authority allowed all the appeals filed by the landlord. Two months' time was granted to the respondents-tenants

to vacate the premises and handover the possession to the landlord. Rent Control Appeal No.4 of 2004 was dismissed confirming the order of eviction.

5. Aggrieved against the Appellate order, tenants filed Civil Revision Petitions in the High Court as noted above the High Court allowed all the Civil Revision Petitions. The order passed by the Rent Control Appellate Authority insofar as it allowed the appeal of the landlord was set aside. The Civil Revision Petition filed against the order passed by the Appellate Authority in Rent Control Appeal No.4 of 2004 was allowed setting aside the judgment of the Subordinate Judge. Insofar as the High Court in its judgment with regard to ground taken by the landlord of owner's occupation as well as demolition and reconstruction held the above two grounds are mutually destructive in paragraph 3 of the judgment which is to the following effect:

"3. Before ever the bonafides of demolition and reconstruction is analysed, it is to be mentioned that both the grounds of requirement for owner's occupation as well as demolition and reconstruction may not be simultaneously maintainable. Those grounds may be raised as an alternative to each other. But both cannot survive simultaneously. It is so because one is destructive of the other. Before ever demolition is made if owner is to utilize, then demolition

becomes frivolous. Similarly, if demolition is made, owner's occupation can be claimed only upon reconstruction, which is a prospective chance of existence. No claim could be based upon a prospective chance of existence of corpus. It is in that way, one is destructive of the other. It was so held in K.A.M.A NATARJA NADAR & SONS VS. R. KANNAN (2005 (5) CTC 537)."

6. The High Court further held that there being no plan filed for reconstruction and there is no evidence indicating the financial resources available with the appellant and further there being no Engineer's report that the building is in dilapidated condition, the requirement of the building for demolition and reconstruction was not bonafide. The High Court also did not accept the ground of eviction on default in payment of rent.

7. We have perused the entire material on record including the orders passed by the Rent Control Appellate Authority as well as the High Court. The opinion expressed by the High Court that landlord has failed to prove his case of eviction on the ground of owner's occupation as well as the requirement of demolition. The High Court has rightly held that no material including the Engineer's report and reconstruction plan being on

record the case of the appellant cannot be accepted that building requires demolition and reconstruction. We do not find any such error in the judgment of the High Court which may require interference by this Court.

8. Learned counsel for the appellant has lastly submitted that the eviction petitions were filed in the year 1999 at that time building was more than 40 years old and as on date building has become further old, two decades having been passed after filing of the eviction petitions. In the facts and circumstances of the case, we only observe that dismissal of the petitions filed by the appellant in the year 1999 on the ground that building requires reconstruction after demolition shall not preclude the landlord in filing a fresh application on the ground that building requires demolition and reconstruction along with appropriate material. Subject to above liberty, the appeal is dismissed.

.....J.
(ASHOK BHUSHAN)

.....J.
(NAVIN SINHA)

New Delhi,
July 24, 2019.

ITEM NO.102

COURT NO.12

SECTION XII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 3117/2007

R. SURESHLAL

Appellant(s)

VERSUS

DURAISAMY (DEAD) THROUGH LRS. & ORS.

Respondent(s)

Date : 24-07-2019 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ASHOK BHUSHAN
HON'BLE MR. JUSTICE NAVIN SINHA

For Appellant(s) Jyoti Parasher, Adv.
Ms. Rachna Gandhi, Adv.
Mrs. Revathy Raghavan, AOR

For Respondent(s) Mr. R. Ayyam Perumal, AOR

UPON hearing the counsel the Court made the following

O R D E R

The civil appeal is dismissed in terms of the signed order.

Pending application, if any, stands disposed of.

(MEENAKSHI KOHLI)
COURT MASTER

(RENU KAPOOR)
COURT MASTER

[Signed order is placed on the file]